

City of Seattle

Office of City Auditor



Susan Cohen, City Auditor

Date: June 25, 2004

To: Mayor Greg Nickels, City of Seattle
Councilmember Richard McIver, Chair, Finance and Budget Committee

From: Susan Cohen, City Auditor

Subject: Review of Consumer Affairs' Weights and Measures/Taxicab Inspection Programs

The Office of City Auditor conducted a preliminary review of the Consumer Affairs Unit's weights, measures, and taxicab programs. Consumer Affairs is responsible for regulating commercial measuring and pricing activities to protect consumers, and taxicabs for taximeter accuracy and passenger safety. The purpose of the initial review was to confirm whether Consumer Affairs enforced State and City code provisions related to weights, measures, and taxicabs, and collected associated revenue, and to determine whether a comprehensive audit was merited.

Based upon our initial observations of inspections and analysis of performance and revenue collection data, we concluded that Consumer Affairs met its regulatory objectives and did not require a full audit review. Specifically, Consumer Affairs:

- 1) Conducted regular inspections and appropriate follow-up inspections of weights, measuring devices, and retail pricing systems; and responded to all consumer complaints;
- 2) Inspected all taxicabs to ensure passenger safety and taximeters to certify the accuracy of taximeters, conducted random field checks to promote compliance with City regulations for the taxicab industry, and monitored passenger complaints; and
- 3) Collected revenues and fines associated with the enforcement of State and City codes, and generated sufficient revenues to fully recover the cost of weights and measures inspection and enforcement activities.

Introduction and Background

The Consumer Affairs Unit, organized under the Revenue and Consumer Affairs Division of the Department of Executive Administration, oversees the City's weights, measures and taxicab programs. The City's weights and measures function was established in 1911 to protect Seattle consumers by testing and verifying the accuracy of scales, gasoline pumps, and the net contents of packaged goods. In 1912, Consumer Affairs began inspecting taxicabs for passenger safety and service. Consumer Affairs also added a price scanning inspections function in the early 1990s to ensure that complex retail pricing systems were accurate.

Chapter 19.94.190 of the Revised Code of Washington (RCW) authorizes cities to operate weights and measures programs in accordance with Federal and State inspection standards for

equipment calibration. In addition to instituting inspection standards, the Washington State Department of Agriculture also establishes the annual licensing fee structure. The Department of Agriculture collects annual licensing fee revenues for Seattle and transfers the revenues to the City, which operates a municipal weights and measures function.

Because RCW 19.94.175 explicitly prohibits local jurisdictions from establishing unique fee structures for inspections and because the State has not increased licensing fees since 1995, Consumer Affairs was unable to fully recover operating expenses for weights and measures inspections through State licensing fees alone. However, Consumer Affairs began charging registration fees for retail pricing system inspections in 2003.¹ In addition, Seattle Municipal Code (SMC) 5.55.030 adds a surcharge of five dollars to City business license fees to cover inspection costs that exceed the State established fee structure for weights and measures inspections. (SMC 5.55.030 was intended as a stopgap measure to offset weights and measures inspection costs until the Washington State legislature adopts legislation adjusting the fee structure to allow full recovery of inspection costs.) The City's current retail pricing system registration fee and business license surcharge allows Consumer Affairs to fully recover its costs for all price scanning, weights, and measuring device inspections.

Finally, SMC 6.310.140 grants broad authority to the Director of Executive Administration, which in turn delegates enforcement to Consumer Affairs to regulate City taxicabs, conduct inspections, and collect associated revenues. Both the Revised Code of Washington and Seattle Municipal Code contain provisions related to the establishment of annual fees and fines.

Methodology

The Office of City Auditor commenced the initial review of the City's inspection functions for weights, measuring devices, and taxicabs, as well as Consumer Affairs enforcement activities in July 2003. Our research methodologies included:

- Interviewing Revenue and Consumer Affairs managers and staff, and reviewing literature to clarify and define program functions;
- Reviewing State and City regulatory code and policies related to weights, measures, and taxicabs; and identifying recent legal activity surrounding code enforcement;
- Researching benchmarking studies and determining industry practices and procedures for carrying out inspections;
- Completing site visits of gas pump, scale, vehicle tank, retail price scanning, and taxicab inspections; and
- Analyzing workload data statistics, internal forms, consumer complaints, inspection results, and the collection of fines and fees to determine achievement of program objectives.

We conducted the review between July 2003 and May 2004 in accordance with the standards for the professional practice of internal auditing.

¹ Because RCW 19.94.175 does not prohibit local jurisdictions from establishing such fees, section 7.04.645 of the Seattle Municipal Code (SMC) was amended in November 2002 to allow Consumer Affairs to charge registration fees for retail pricing system inspections.

Analysis and Preliminary Review Conclusions

Based upon our preliminary review of weights, measures, and taxicab inspection and revenue collection activities, we determined that Consumer Affairs enforced City code provisions associated with regulating commercial measuring devices and taxicabs operating in Seattle city limits. We discontinued the audit after reaching the three conclusions that are discussed below.

Conclusion 1) Consumer Affairs conducted regular inspections of weights, measuring devices, and retail pricing systems, and responded to all consumer complaints in compliance with the Seattle Municipal Code.

Seattle Municipal Code 7.04.145 requires Consumer Affairs to inspect and test all commercial weights and measuring devices *as often as necessary* to ensure accuracy. Our analysis of Consumer Affairs' compliance with code-mandated inspection requirements included observations of field inspections, review of 2003 inspections data for weights and measuring devices, and tests of sample inspections to confirm the reliability of the data.² Based upon our initial review, we determined that Consumer Affairs conducted regular inspections of weights, measuring devices, and retail pricing systems, as shown below in Exhibit 1.³

Exhibit 1: 2003 Weights and Measures Inspections				
Type of Weight or Measuring Device	Total Number of Devices	Number of Inspections	Percentage of Devices Inspected	Number of Reinspections
Gas Pumps	3,132	2,967	95%	307
Scales	2,747	2,747	100%	135
Vehicle Tank Meters	85	85	100%	20
Retail Pricing Systems	343	250	73%	24
Source: Consumer Affairs 2003 inspection reports.				

Because SMC 7.04.145 does not require inspections of all weights and measuring equipment annually, the Consumer Affairs Manager prioritizes inspection services. As shown in Exhibit 1 above, Consumer Affairs inspected all scales and vehicle tank meter trucks, 95 percent of gas pumps, and 73 percent of retail pricing systems in 2003. The Consumer Affairs retail pricing system inspector was unable to test all retail pricing systems in 2003, because local businesses required additional support from Consumer Affairs personnel during the transition to the newly adopted City license registration fee and the implementation of the related billing system. Consumer Affairs inspection staff completed 24 reinspections of retail pricing systems that failed previous inspections, consistent with City code provisions.

In addition, Consumer Affairs inspectors retested 307 gas pumps, 135 scales, and 20 vehicle tank meters that failed initial inspections. Consumer Affairs' allocation of staff to reinspections was consistent with code inspection standards that require remedial action if equipment fails.

² Because Consumer Affairs staff indicated that previous years' data contained duplications and were not reliable, we included only 2003 data in our analysis.

³ The Consumer Affairs Unit relies on licensing reports submitted by the State, past inspection records and field observations to determine the number and type of devices requiring inspection.

Consumer Affairs inspectors issued warnings to gain compliance with the City code in some cases. When test results showed that devices egregiously favored businesses, however, inspectors suspended the operation of weights and measuring devices consistent with the City code.

We also reviewed complaints filed by Seattle consumers regarding weights, measuring devices, retail pricing systems, and unit packaging to determine whether Consumer Affairs was responsive to consumer concerns in 2003. Exhibit 2 below displays the number and type of complaints and unfounded complaints received by Consumer Affairs in 2003.

Exhibit 2: 2003 Complaints and Related Inspection Results		
Complaint Type	Number of Complaints	Unfounded Complaints
Gas Pumps	14	11
Scales	2	1
Vehicle Tank Meters	0	0
Retail Pricing Systems	3	1
Net Content*	5	1
<i>Total Complaints</i>	<i>24</i>	<i>14</i>
Source: Consumer Affairs 2003 inspection reports and complaint statistics. *Net content complaints do not refer to retail pricing systems, but to packaged items sold at stores as well as firewood sales by private vendors.		

Based on our review of the 2003 consumer complaints, we determined that Consumer Affairs responded to all complaints by either returning telephone calls, or conducting inspections of the equipment in question. Of the 24 complaints received during 2003, inspectors determined that 14 (58 percent) of the complaints were unfounded. The unfounded complaints included those that Consumer Affairs was unable to follow-up due to insufficient information, or complaints that resulted from consumer misperceptions about the operation of certain devices.

It is notable that only 24 complaints were filed with Consumer Affairs by Seattle consumers during 2003, and that inspectors found only 10 (42 percent) of these complaints to be valid. These findings may indicate that Seattle consumers are largely satisfied with the regulation of weights and measures.

Conclusion 2) Consumer Affairs routinely conducted taxicab and taximeter inspections to ensure passenger safety and equipment accuracy. Consumer Affairs also randomly conducted field checks to promote compliance with City regulations for the taxicab industry, and monitored the taxicab associations' resolution of passenger complaints.

Regulation of the Seattle area taxicab industry includes annual safety and taximeter inspections, random field inspections, and assessment of fines to enforce City code. Annual safety and taximeter testing ensures accurate charges and safe transportation of taxicab passengers. Random field inspections encourage taxicab drivers to maintain vehicle safety requirements in

the field, uphold standards of professional conduct, and adhere to administrative procedures outlined in City code. Currently, 642 taxicabs are licensed to operate within Seattle city limits.⁴

Consumer Affairs does not fine taxicabs that fail annual inspections. Instead, Consumer Affairs revokes operating rights if taxicabs fail to meet safety standards at the annual inspection until they pass reinspection, and consistently charges reinspection fees for all taxicabs with safety and other code violations. Consumer Affairs also fines taxicabs that fail field checks, and may require follow-up safety or meter inspections. Fines range from \$30 for first-time, minor offenses to \$1,000 for gross offenses. Consumer Affairs uses a point system to track the number of violations issued to taxicab drivers by taxi association. Taxicab associations that accumulate substantial points from taxicab operator violations are also assessed monetary penalties.

Based upon our observations of field inspections and review of workload data, we determined that Consumer Affairs conducted all annual inspections of taxicabs, and promoted compliance with City code by completing field checks. Exhibit 3 below displays the annual taxicab inspections for safety, taximeter, and field checks conducted by Consumer Affairs during 2003.

Exhibit 3: 2003 Annual and Random Taxicab Inspections and Reinspections		
Type of Inspection	Number of Distinct Taxicabs Inspected	Suspension and/or Reinspection Fee or Fine
Safety	642	153
Taximeter	642	195
Field Checks*	522	213
Total**	642	561
Source: Consumer Affairs 2003 inspection reports. *One field inspector conducted 1,983 random field checks on 522 different taxis in 2003. **The total number of distinct taxicab inspections refers only to Seattle-licensed taxicabs.		

Consumer Affairs inspectors completed 100 percent of the safety checks and taximeter tests required for taxis licensed to operate in the City of Seattle in 2003. Additionally, one inspector conducted 1,983 random field inspections on 522 different taxicabs to verify that taxicab drivers and equipment operated safely in the field, and that the taxicab associations and drivers adhered to administrative requirements specified in City code. The Consumer Affairs field inspector conducted inspections on weekdays, weekends, and evenings, at random and in response to customer complaints. To minimize time required of taxicab drivers, the field inspector initiated inspections from street pick-up locations but did not randomly inspect dispatched taxicabs.

Consistent with the City code, Consumer Affairs conducted reinspections and assessed fines against taxicabs that failed inspections. Consumer Affairs suspended the legal operation of 153 taxicabs that failed safety checks and 195 taxicabs that failed taximeter tests, until the taxicabs passed reinspection. Consumer Affairs also issued 212 notices of violation to taxicab operators

⁴ Consumer Affairs inspects over 250 taxicabs for King County and the cities of Everett, Lynwood and Enumclaw under cooperative agreements with those jurisdictions, bringing the total number of taxicabs inspected by Consumer Affairs to over 900.

and associations, suspended operation of 1 taxicab due to failed field checks (213 remedial actions total), and levied fines according to the fee schedule in SMC 6.310.605. (See Exhibit 4 in Conclusion 3 for information regarding assessed fines and fees for taxicab violations.)

Additionally, Consumer Affairs monitored the number and status of taxicab passenger complaints filed with taxicab associations and received on a separate complaint hotline. The taxicab associations rather than Consumer Affairs are responsible for the investigation and resolution of all complaints. Passengers filed a total of 937 complaints with taxicab associations and left 138 hotline complaints in 2003. The most common complaints registered with the hotline were that drivers were rude, overcharged for services, drove recklessly, or refused to make short trips. Taxicab associations resolved 107 of the 138 (78 percent) complaints in 2003. Resolutions ranged from issuing apologies to terminating the employment of offending drivers.

It should be noted that the total number of complaints filed in 2003 accounted for 0.04 percent of the 2,813,721 total Seattle-based taxicab trips for the annual period. The relatively small number of complaints compared to the total number of taxi trips made in 2003 suggests that taxicab passengers are generally satisfied with the regulation of the taxicab industry in Seattle.

Conclusion 3) Consumer Affairs collected revenues associated with State and City codes, and collected sufficient revenues to operate the weights and measures program as a financial self-supporting program. The taxicab program, however, continued to operate at a deficit.

Based upon our review of inspection records, administrative reports, and testing of financial data from the Seattle License Information Management (SLIM) system, we concluded that Consumer Affairs collected appropriate revenues from Washington State and Seattle businesses operating weights and measuring devices, as well as from the taxicab industry. Consumer Affairs generally suspends devices rather than levying fines on businesses that operate weights and measures devices that fail, consequently, we did not need to verify collection of associated fines.

However, we did review Consumer Affairs' processes for the assessment and collection of fines associated with taxicab violations. We reviewed inspection results and SLIM generated data, and determined that Consumer Affairs collected appropriate fines from taxicab drivers, owners, and associations to enforce related City code provisions. We verified the adequacy of Consumer Affairs' revenue (fines) collection practices by testing a sample of taxicab violations issued in the month of January 2003 using SLIM data. Information downloaded from SLIM confirmed that taxicab associations and operators that received code violations paid all fines as assessed by inspectors, or as adjusted by the Department of Executive Administration.⁵

Additionally, we reviewed 2003 Consumer Affairs budget data provided by the Department of Executive Administration and Department of Finance to determine whether weights, measures, and taxicab program activities were self-sustaining. Exhibit 4 below shows the revenue sources for weights, measures, and taxicab programs to support associated inspections in 2002 and in 2003.⁶

⁵ Taxicab drivers, owners, and associations may appeal the Department of Executive Administration to reduce fines within 14 days of issue of the citation for code violation.

⁶ Due to internal accounting practices, revenue data are estimated figures rather than exact amounts.

Exhibit 4: 2002 and 2003 Weights, Measures, and Taxicab Financial Operations		
	2002	2003
Weights and Measures		
Revenues		
Device Registration Fees*	\$31,186	\$48,185
City Business License Surcharge	0	250,000
Retail Pricing System Registration Fee	0	51,450
<i>Total Revenues</i>	<i>\$31,186</i>	<i>\$349,635</i>
Expenditures		
Labor	\$245,837	\$253,548
Non-Labor Expenses	59,753	58,069
<i>Total Expenditures</i>	<i>\$305,590</i>	<i>\$311,617</i>
Fund Balance	(\$274,404)	\$38,018
Taxicabs		
Revenues**		
Taxicab Inspection Fees and Penalties	\$221,843	\$205,714
Driver Training Course Fees	22,000	22,000
<i>Total Revenues</i>	<i>\$243,843</i>	<i>\$227,714</i>
Expenditures		
Labor	\$207,683	\$214,661
Non-Labor Expenses	39,835	38,712
Driver Course Trainers	23,688	23,967
<i>Total Expenditures</i>	<i>\$271,206</i>	<i>\$277,340</i>
Fund Balance	(\$27,363)	(\$49,626)
Source: Department of Finance, Consumer Affairs Revenue Data, 2002 and 2003.		
* Device registration fee revenues reflect total cash transfers from the Washington State Department of Agriculture after deductions for calibration services.		
** Taxicab revenues include payment from King County and the City of Everett for contract services.		

As shown in Exhibit 4 above, revenues generated by the weights and measures program increased substantially from \$31,186 in 2002 to \$346,635 in 2003 when a City business licenses surcharge was implemented as well as a retail pricing system registration fee. The weights and measures revenues exceeded expenditures in 2003, so the program was self-supporting.⁷ Consumer Affairs collected \$243,843 in 2002 and \$227,714 in 2003 in taxicab fees, fines, and driver training course charges. However, the taxicab program's expenditures amounted to \$271,206 in 2002 and \$277,340 in 2003, which resulted in operating deficits for both years. Although the taxicab program did not generate sufficient funds to fully support inspection activities, the taxicab program's 2003 operating deficit of \$49,626 was mostly offset by a weights and measures revenue gain of \$38,018.

⁷ Prior to the 2002 amendment of City code that implemented a price-scanning fee and business license surcharge, the weights and measures program relied on the City's general fund to cover revenue shortfalls.

In summary, we determined that Consumer Affairs conducted regular inspections of weights, measuring devices and taxicabs, and collected all revenues authorized by relevant State and City codes based on the sample tested. We also determined that a full audit review of Consumer Affairs was not required based on the results of our preliminary review.

We appreciate the excellent cooperation of the Consumer Affairs Unit during the preliminary review process. If you have any questions or comments, please contact me at 233-1093 or Sarah Butler at 233-1092.

SC:SBB:SB:am

cc: Ken Nakatsu, Director, Department of Executive Administration
Mel McDonald, Revenue and Consumer Affairs Division Director, Department of Executive Administration
Craig Leisy, Consumer Affairs Manager, Department of Executive Administration
Aimee Strasko, Strategic Advisor/Analyst, Department of Finance



City of Seattle

Gregory J. Nickels, Mayor

Department of Executive Administration

Kenneth J. Nakatsu, Director

June 16, 2004

Susan Cohen
City Auditor
Seattle Municipal Tower
700 5th Avenue, Room 2410
Seattle, WA 98104

Dear Susan:

The Department of Executive Administration is pleased that the recent review of the regulatory programs of the Consumer Affairs Unit was very positive. The weights and measures regulatory program and taxicab industry regulatory program both originated in the early part of the 20th century. The Consumer Affairs Unit has anticipated and responded to industry changes and is recognized as a national model for consumer protection. Residents of Seattle have greatly benefited from the services provided by the Consumer Affairs Unit and the Consumer Protection Roundtable that it helped found more than 20 years ago. The City of Seattle continues to be a recognized leader and very active participant in the National Conference on Weights and Measures (NCWM) and the International Association of Transportation Regulators (IATR).

Sincerely,

Kenneth J. Nakatsu
Director

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Fax: 206/684-0900

E-Mail: auditor@seattle.gov

Mail: Office of City Auditor, PO Box 94729-4729, Seattle, WA 98124-4729

Call: Susan Cohen, City Auditor, 206-233-3801

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